IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.1628 OF 1984

The Board of Trustees of the Port of Bombay ..Plaintiff.

Vs.

M/s. Ellora Pure Products ..Defendant.

....

Mr. N.H. Manjee i/b Mulla & Mulla and Craigie Blunt & Caroe for the Plaintiff.

CORAM: DR. D.Y. CHANDRACHUD, J.

17th November, 2006.

P.C. :

1. The suit has been instituted by the Board of Trustees of the Port of Mumbai for the recovery of a sum of Rs.3,05,000/- with further interest on the principal sum of Rs.2,89,788.05 at the rate of 15% per annum from the date of the suit till payment or realization. No written statement has been filed on behalf of the Defendant. The suit has accordingly been directed to proceed for want of written statement. In pursuance of the previous order dated 21st September, 2006, the Plaintiff has filed an affidavit in lieu of the examination in chief of the Assistant Docks Manager and a compilation of the original documents. The affidavit and the compilation of the original documents are taken on record.

2. The Defendant had imported a consignment of 70 drums of Diethylene Glycol in October 1979 which was manifested in the Import General Manifest dated 29th October, 1979. The general landing date and the last free days of the cargo respectively were 29th October and 2nd November, 1979. The Defendant failed to take delivery upon which the cargo remained uncleared. After due notice, the cargo was sold in a public auction. The suit has been instituted for the recovery of an amount of Rs.2,89,788.05 being the deficit of Port Trust charges after giving credit for the amount of realization in the sale. There is no written statement though the Defendant has been served. The claim of the Plaintiff has been duly proved. In these circumstances, the suit shall stand decreed in terms of prayer clause (a), save and except for the modification that the Plaintiff would be entitled to interest at the rate of 9% per annum from the date of the suit till payment or realization and to the costs of the suit.